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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/588,854	08/09/2006	Kenzo Kase	039371-18	2013

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PEACOCK MYERS, P.C.
201 THIRD STREET, N.W.
SUITE 1340
ALBUQUERQUE, NM 87102

EXAMINER

HICKS, VICTORIA J

ART UNIT	PAPER NUMBER
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3772

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08/30/2010

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/588,854	Applicant(s) KASE, KENZO	
	Examiner VICTORIA HICKS	Art Unit 3772	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 June 2010.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 19-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 19 and 23-30 is/are rejected.
- 7) ☒ Claim(s) 20-22 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 August 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>6/24/10</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This action is in response to the amendment filed on 6/24/10. Claims 1-18 were cancelled by Applicant. Claims 19-30 remain pending.

Priority

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 19 and 23-28 are rejected under 35 U.S.C. 102(e) as being anticipated by Kato et al. (US publication 2007/0218269).

In regards to claim 19, Kato et al. teaches in Figures 1 and 2 and [0059] a stretch base material (substrate 2, which can be made of nonwoven cloth (a stretchable material)); an adhesive layer (3) comprising a plurality of rectilinear grooves (21, 31) disposed on said base material (2), wherein said grooves (21, 31) extend in a tape width direction and are arranged in an array configuration in a longitudinal direction of

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said tape (1); said grooves (21, 31) not containing adhesive (3) thereby facilitating breathability; and said grooves (21, 31) not extending across the entire width of said tape (1) but having adhesive (3) between said grooves (21, 31).

In regards to claim 23, Kato et al. teaches the apparatus of claim 19. Kato et al. teaches in Figure 1 that the base material (2) is exposed through the grooves (21, 31).

In regards to claim 24, Kato et al. teaches the apparatus of claim 19. Kato et al. teaches in Figures 1 and 2 that the grooves (21, 31) are disposed parallel to each other.

In regards to claim 25, Kato et al. teaches the apparatus of claim 19. In [0059] and Figure 1 Kato et al. teaches that the grooves (21, 31) are on a stretchable base cloth (nonwoven cloth 2). This stretch ability would cause the width of said grooves (21, 31) the change with expansion and contraction of the tape (1).

In regards to claim 26, Kato et al. teaches the apparatus of claim 19. In [0059] and Figure 1 Kato et al. teaches that the adhesive layer (3) is on a stretchable base cloth (nonwoven cloth 2). This stretch ability would cause the thickness of said adhesive layer (3) to change with expansion and contraction of said tape (1) thereby changing a dept of said grooves (21, 31).

In regards to claim 27, Kato et al. teaches the apparatus of claim 19. Kato et al. teaches in [0056] and Figure 1 a peelable exfoliate layer (4) disposed on said adhesive layer (3).

In regards to claim 28, Kato et al. teaches the apparatus of claim 19. Kato et al. teaches in Figures 1 and 2 that the array comprises a repetitive pattern.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kato et al. (US publication 2007/0218269) in view of Carte et al. (US 6,495,229).

In regards to claim 29, Kato et al. substantially teaches the apparatus of claim 19. Kato et al. does not teach that the grooves are not arranged at regular spacing in said longitudinal direction. However, Carte et al. teaches in column 5, lines 1-4 and Figure 2 an analogous device in which the grooves (21) are not arranged at regular spacing in said longitudinal direction. It would have been obvious to one having ordinary skill in the art at the time of invention to modify the grooves taught by Kato et al. with the arrangement taught by Carte et al. because this element is known to provide better adhesion of the tape taught by Kato et al.

3. Claim 30 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kato et al. (US publication 2007/0218269).

In regards to claim 30, Kato et al. substantially teaches the apparatus of claim 19. Kato et al. does not that the grooves comprise different lengths. However, it would have been obvious to one having ordinary skill in the art at the time of invention to

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provide the grooves comprising different lengths, since it has been held that a change in the size of a prior art device is a design consideration within the skill of the art. *In re Rose*, 220 F. 2d 459, 105 USPQ 237 (CCPA 1955).

Allowable Subject Matter

4. Claims 20-22 are objected to as being allowable if rewritten to include all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's amendments to claims 19, 21 and 22 are sufficient to overcome the examiner's previous rejection of claims 19, 21 and 22 under 35 U.S.C. 112, second paragraph.

Applicant's arguments with respect to claims 19-30 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to VICTORIA HICKS whose telephone number is (571)270-7033. The examiner can normally be reached on Monday through Thursday, 7:00am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia Bianco can be reached on (571) 272-4940. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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/V. H./
Examiner, Art Unit 3772
8/25/10

/Patricia Bianco/
Supervisory Patent Examiner, Art Unit 3772